

REMARKS

Claims 1-20 are pending in the application. Claims 1-11 and 13-20 stand rejected, and Claims 4, 12 and 20, the Drawings and the Specification have been objected to.

By the present amendment, Claims 4, 12, 13 and 20 and the Specification have been amended. The Examiner's reconsideration of the objections and rejections in view of the above amendments and the following remarks is respectfully requested.

In the Drawings:

It is respectfully submitted that the set of formal drawings annexed hereto obviate Examiner's drawing objection stated on page 2 of the Office Action.

Accordingly, withdrawal of the drawing objection is respectfully requested.

In the Specification:

It is respectfully submitted that the Specification has been amended in such a manner as to obviate Examiner's objection listed on pages 2-3 of the Office Action.

More particularly, the Specification has been amended as essentially recommended by the Examiner.

Accordingly, withdrawal of the objections with regard to the Specification is respectfully requested.

Claim Objections:

Claims 4, 12 and 20 have been objected to by the Examiner for the reasons stated on pages 3 and 12 of the Office Action.

It is respectfully submitted that Claims 4 and 20 have been amended as essentially recommended by the Examiner.

Further, it is gratefully acknowledged that Claim 12 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. It is respectfully submitted that Claim 12 has been amended as essentially recommended by the Examiner, and is now in condition for allowance.

Accordingly, withdrawal of the claim objections is respectfully requested.

Claim Rejections- 35 U.S.C. 102 and 103:

Claim 1 is rejected under 35 U.S.C. § 102(b) as being anticipated by Whittington (U.S. Patent 5,954,426). Claims 18-19 are rejected under 35 U.S.C. § 102(b) as being anticipated by Whittington (U.S. Patent 5,954,426). Claims 2-8 and 13-17 are rejected under 35 U.S.C. § 103 as being obvious over Whittington in view of Smith (U.S. Patent 3,387,396). Claims 9-11 and 20 are rejected under 35 U.S.C. § 103 as being obvious over Whittington in view of Mitchell (U.S. Patent 4,167,783).

With respect to the Smith reference in the Office Action, it was confirmed in a telephonic interview with the Examiner that the cited reference --Smith (U.S. Patent 3,387,896)-- should read “Smith (U.S. Patent 3,387,396).”

With respect to Claims 1 and 18, it is respectfully submitted that Claims 1 and 18 are patentable and not anticipated by Whittington since Whittington does not disclose a floor lamp comprising, *inter alia*, “a pedestal...a base...and the ratio of the length of the base to the width of the pedestal being less than or equal to 6:1” as recited in Claims 1 and 18. The recited ratio provides stability to the floor lamp, and minimizes the possibility of tip-over.

Rather, Whittington discloses a lamp including a base **20** having a mounting portion **22** and a resting flange **24** with at least two elongated tubes **40** mountable to the mounting portion **22** of the base **20** and does not disclose a ratio of the length of the base to the width of the pedestal being less than or equal to 6:1. Indeed, nowhere in either the cited passages or figures of Whittington does Whittington disclose “the ratio of the length of the base to the width of the pedestal being less than or equal to 6:1” as recited in Claims 1 and 18. In addition, it is clear that Whittington does not provide the recited ratio to minimize or prevent the possibility of tip-over of the lamp, since Whittington discloses mounting spikes **26** to specifically stabilize the lamp. Thus, Whittington teaches away from the present invention.

Further, if it is the Examiner’s position that Whittington discloses such an element, the Examiner is respectfully requested to identify with particularity (i.e., by column and line number) where in Whittington such disclosure can be found. Thus, Claims 1 and 18 are believed to be patentable over and not anticipated by Whittington.

Accordingly, withdrawal of the claim rejection with respect to Claims 1 and 18 is respectfully requested.

Claim 19 depends from Claim 18. As such, this claim is believed to be allowable for at least the same reasons as given above for its base Claim 18.

Therefore, withdrawal of the claim rejections under 35 U.S.C. § 102 is respectfully requested.

With respect to Claims 2-11 and 20, Claims 2-11 depend from Claim 1, and Claim 20 depends from Claim 18. In addition, the above rejections are based, in part, on the contention that Whittington discloses the elements of Claims 1 and 18. However, since Claims 1 and 18 are patentably distinct from Whittington as described above, these claims are believed to be patentable for at least the same reasons as given for their respective base Claims 1 and 18.

In addition, it is respectfully submitted that the dependent claims are allowable for additional reasons. For example, Claim 9 is believed to be allowable over the combination of Whittington and Mitchell because neither Whittington nor Mitchell, singularly or in combination disclose a floor lamp comprising, *inter alia*, “[a] pedestal configured to have a plurality of portions selectively displaceable relative to a base so as to modify the width of the pedestal and to increase stability of the floor lamp” as generally recited in Claim 9.

As correctly acknowledged by the Examiner on page 8 of the Office Action, Whittington does not disclose such elements. However, Examiner contends that Mitchell cures such deficiencies of Whittington. It is respectfully submitted that Examiner’s contention that Mitchell discloses such elements is incorrect.

Rather, Mitchell discloses a lamp including a stand 18 having a base 20 which includes four feet portions 24a-d that extend outwardly at substantially equal angles from a central section 26. In other words, the four feet portions 24a-d of Mitchell are fixed and not, at the very least, selectively displaceable relative to a base so as to modify the width of the pedestal and to increase stability of the floor lamp. Indeed, nowhere in either the cited passages or figures of Mitchell is it seen or discussed where Mitchell discloses that the four feet portions 24a-d are moveable or adjustable, much less suggest or disclose a floor lamp comprising, *inter alia*, “a pedestal configured to have a plurality of portions selectively displaceable relative to a base so as to modify the width of the pedestal and to increase stability of the floor lamp” as generally recited in Claim 9. Moreover, if it is the Examiner’s position that Mitchell discloses such elements, the Examiner is respectfully requested to identify with particularity (i.e., by column and line number) where in Mitchell such disclosure can be found. Thus, Mitchell does not cure

the deficiencies of Whittington, and Claim 9 is believed to patentable and nonobvious over the combination of Whittington and Mitchell.

Therefore, withdrawal of the claim rejections with respect to Claims 2-11 and 20 is respectfully requested.

With respect to independent Claim 13, it is respectfully submitted that Claim 13 is allowable over the combination of Whittington and Smith because neither Whittington nor Smith, singularly or in combination, disclose or suggest a lamp comprising, *inter alia*, “a pedestal...a base...and the ratio of the length of the base to the width of the pedestal being less than or equal to 6:1” as recited in Claim 13.

As noted above, nowhere in either the cited passages or figures of Whittington does it disclose “the ratio of the length of the base to the width of the pedestal being less than or equal to 6:1” as recited in Claim 13. Further, Smith does not cure and is not cited as curing the deficiencies of Whittington discussed above. In particular, nowhere in the cited passages or figures of Smith does it disclose or suggest “the ratio of the length of the base to the width of the pedestal being less than or equal to 6:1” as recited in Claim 13. Rather, Smith discloses a display device comprising a container having at least two substances, one substance being a liquid, the second substance being a paraffin base solid at room temperature and immiscible with the liquid. There is no disclosure, suggestion or even a hint in Smith of a floor lamp comprising, *inter alia*, a pedestal and a base, much less a ratio of the length of a base to the width of a pedestal is less than or equal to 6:1, as generally recited in Claim 13. Thus, Smith does not cure the deficiencies of Whittington.

Therefore, since Whittington, alone or in combination with Smith, does not disclose or suggest the presently claimed floor lamp, Claim 13 is believed to be nonobvious and patentable over the combination of Whittington and Smith.

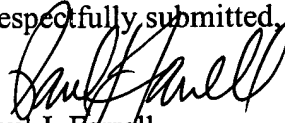
Claims 14-17 depend from Claim 13. As such, Claims 14-17 are believed to be allowable for at least the same reasons as given above for Claim 13.

Accordingly, withdrawal of the claim rejections under 35 U.S.C. §103 is respectfully requested.

For the foregoing reasons, it is respectfully submitted that Claims 1-20 as presented herein are in condition for allowance. Such early and favorable action is earnestly solicited.

Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any matters, the Examiner may contact Applicant's attorney at the number given below.

Respectfully submitted,



Paul J. Farrell

Reg. No.: 33,494

Attorney for Applicant(s)

DILWORTH & BARRESE, LLP

333 Earle Ovington Blvd.

Uniondale, New York 11553

Tel: (516) 228-8484

Fax: (516) 228-8516

PJF/TWM

IN THE DRAWINGS:

A set of formal drawings is annexed hereto.